

MEETING SUMMARY NOTES

Legislation Work Group

*November 21, 2002
10:30 a.m., Room 206 - CCB*

MEMBERS: Present – Jan Gauger, Linda Crump, Beatty Brasch, Bruce Bohrer, Darlene Starman, Bill Austin, Steve Larrick, Bob Peterson, Alan Hersch, Bruce Kevil, and Allan Abbott (non-voting).
Absent – Ken Winston, Chris Beutler, Brian Krannawitter

OTHERS: Kent Morgan, Margaret Blatchford, Corrie Kielty, Jack Moors, Nicole Fleck-Tooze, and Melissa Ramos.

AGENDA ITEMS DISCUSSION:

1. **Welcome - Jan Gauger, Work Group Chair**
2. **Meeting Summary Notes - November 7, 2002**

There was one correction to the meeting summary notes – the term “impervious services” on page 3 was corrected to “impervious surfaces.”

3. **Public Comment Period No. 1 (10 min. max.)**

No one came forward to make any comments.

4. **Fuel Tax**

Allan Abbott passed out a listing of the Motor Fuel Tax Ranking showing where Nebraska ranks among the other states. Nebraska is ranked 9th in Gas tax and 30th in price at the pump. Allan handed out another informational sheet outlining the history of the gas tax going back to 1925. There are several other pages attached to the handout explaining what other costs are included in the cost of gas.

Allan Abbott explained that the Federal Reauthorization Act will occur next year. That will determine the amount of funding that will be available from the Federal Government for the life of that bill. In recent history, the life of the bill has been six year. The House would like to make it two years, however, it is very difficult to plan anything when there are only two years of funding. Allan stated that there is an effort to spend the balance down at the Federal level.

Allan has met with the Nebraska League of Municipalities, the First Class Cities, Omaha, and the Second Class Cities, all were in support of a state wide tax increase. They agreed that there would be more support for a state wide tax increase rather than a local tax increase. They did not think that the City Councils or Village Boards would raise the tax locally. Several people suggested that instead of increasing the tax, we look at tweaking the formula. However, Allan feels that tweaking the formula is a lost cause.

Margaret Blatchford did some research on levying an Occupational Tax on the sale of gasoline. Margaret passed out a handout which showed state statute that gives the City the authority to levy such a tax. Currently the City levies occupation taxes on vending machines, telecommunications, and theaters. There is no question that the City can levy an occupation tax it just depends on how we want to do it. The State collects their tax on the front end, from the suppliers and distributors. If we went on a retail end in the City of Lincoln, we are looking at 137 retailers that are licensed by the State of Nebraska. If this did go forward, there would need to be some type of City legislation to keep track of who actually is a retailer in the City of Lincoln. The Cities with such a tax receive 2¢ per gallon sold, it is not based upon the gross receipts. At this time we do not know how much money can be raised as far as revenue. The Department of Revenue does not keep track of how many gallons of gasoline are sold in the City of Lincoln because they tax at the front end.

Allan Hersch commented that we ought to look at how much money we need to raise and then decide the best way to collect it. Margaret suggested that we talk to a retailer and see what they think. Bill Austin stated that the advantage of going with gross receipts is that the revenue goes up and down with the economy. If the big push with impact fees is to place the tax upon the activity causing the need, this is directly related to the need for roads. There is no question that they should pay, the only questions is how much.

Steve Larrick asked if oil or petroleum would be taxed as well. It would make things more complicated as they are sold at K-Marts, Walmarts, etc. Allan Hersch commented that taxing by measured gallons would keep the tax as direct as possible. Bruce Bohrer added that there are several vehicles in the City that are not paying the wheel tax, this would collect from them as well.

5. Stormwater Utility Legislation

Nicole Fleck-Tooze came forward to give information regarding the Stormwater Utility Fee. Nicole handed out a brochure that described the needs within the State of Nebraska relative to Stormwater Management and how a Stormwater Utility might function. She also handed an overview of the Stormwater Utility and the latest draft of the Legislation.

Right now there are thirty-seven states with enabling legislation. California adopted enabling legislation and it is in the process of being appealed at this time. There are 356 local stormwater utilities that have been adopted nation wide at the County or City level. Sixty-four of those utilities contained a specific

credit policy. The revisions of the legislation that the members received were made to ensure that the ability to provide credit is in the enabling legislation. One of the pieces in the enabling legislation is that credits will be provided for stormwater, water quality, or flood control efforts that go beyond the minimum standards. Nation wide credits range from 35% to 50%.

Linda Crump asked if the cost for public buildings include the car lots they may have. Nicole stated that the car lots would be included in the cost to the public building. Steve Larrick asked if a property owner used something like turf block, would they be eligible for credits. Nicole answered yes, because the water would not be running off, it would be going into the ground. Bruce Kevil asked if the Stormwater Utility permit from EPA had been approved and if Nicole was familiar with the Fluent Limitation Guidelines. The guidelines give an insight to what EPA's expectations might be in terms of stormwater regulation and water quality guidelines. Nicole stated that she has received the Stormwater Permit and is familiar with the guidelines.

Allan Abbott stated that right now bonds help with the replacement of existing storm sewers and new storm sewers are built with projects. The City needs to look at what it is going to cost to make sure that we don't get more sediment into the basins. Currently the City has a master plan for Beal Slough and is working on a master plan for some of the other basins in order to come up with a plan to retain the storm water. The City has passed ordinances to give us more authority to make sure that builders and developers are keeping sediment off the street.

Nicole stated that capital costs for improvement of Beal Slough have been identified at \$15 million. Nicole will put together an outline of what is embodied within the permit which would give the group a better idea of the kinds of activities and example costs going into this effort.

6. "Design-Build" Contracting Approach - Allan Abbott

Allan Abbott presented the Design-Build approach to the group. One of the comments that was suggested and presented to the Efficiency Work Group was going to a Design-Build concept for contracts that the City or State would let. The Design-Build concept is letting a contract stating that we want to build something from point A to point B. Whoever got the bid would be responsible for designing it and constructing it, rather than the way we do it now where we design it and we let the contract. We can not do that now because State Statute says that you must have a set of plans before you take bids. You can hire consultants to prepare plans, but you don't take bids from consultants.

The design-build concept has advantages on certain major projects that need to proceed rapidly. The design-build has opponents, which are in the same category as the proponents. The proponents are the major consultants and contractors because they have the capacity to do it. The opponents are the smaller consultants and contractors because they feel they will be left out. Allan feels that having the option to go to design-build is good if you have a major project that needs to be done quickly. This has worked in other states, primarily in constructing buildings but some have been done with infrastructure.

Bill Austin stated that at the City level there is a problem with Article seven of the Charter because there is a formal bid requirement. Linda Crump asked if simple projects were more appropriate for design-build. Allan Abbott answered that the design-build would be used most often when there is a time issue. It does not get you out of the Federal or permit requirements. Greg MacLean of HDR, who is on the Cost Savings and Efficiency Work Group, has offered to come and speak to this group if more information is wanted.

7. Other Business

Allan Hersch asked if there were some significant savings with design-build. Jack Moors answered that he had done a design-build on a church and saved a large amount of money. Linda Crump added that she had heard that when design-build was used to build a parking garage, they got more spaces for the same amount of money. Bill Austin added that although money would be saved, there is little control over the end product.

Bob Peterson asked what the State Statute says regarding bidding for professional services. Bill Austin answered that there is an Administrative Order in the City that says at certain levels you must go out and get proposals. Allan Abbott added that you are not bound by taking the lowest bidder. If one has more experience, that can be taken into consideration.

8. Set Meeting Date and Agenda Topics for Next Meeting

Jan Gauger stated that there would need to be a couple of more meetings before the group comes to a resolution that will be recommended to the Mayor. The next meetings were scheduled for Tuesday, December 3rd at 1:30 and Tuesday, December 10th at 1:30.

Jan Gauger stated that if any of the members had any questions or would like to get more information on the topics covered today, they could e-mail her or Kent Morgan.

Allan Hersch asked if a chart could be put together showing how much a variety of charges on a per gallon or gross receipt could raise with the occupational tax. Jack Moors asked if lubricants and oil were going to be included in the occupational tax. Allan Abbott suggested that it be made as easy to collect the tax as possible. If cans of oil are taxed, a lot of things will need to be changed on the retailers end. Allan Hersch suggested that the City issue a permit that would require the reporting of gallons sold. Steve Larrick express his concern that this occupational tax would be passed to the employees working at the gas stations, not to the customers.

Kent Morgan stated that Kathy Campbell was unable attend the meeting today to speak about the Mayors Transportation Task Force. Jan and Kent will meet with her and get information to bring back to the group.

9. Public Comment Period No. 2 (Time Permitting)

No one came forward to make any comments.

10. Adjournment

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